

PREHEARING CONFERENCE and EVIDENTIARY HEARING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
 )  
Application for Certification for ) Docket No.  
the Canyon Power Plant ) 07-AFC-9  
 )  
\_\_\_\_\_ )

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM B  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA 95814

MONDAY, NOVEMBER 2, 2009

10:06 A.M.

Reported by: Peter Petty, CER\*\*D-493  
Transcribed by: Margo D. Hewitt, CET\*\*00480  
Contract No. 170-08-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Jeffrey D. Byron, Presiding Member

HEARING OFFICER AND ADVISORS

Paul Kramer, Hearing Officer

Kristy Chew, Advisor

David Hungerford, Advisor

STAFF AND CONSULTANTS PRESENT

Deborah R. Dyer, Staff Counsel

Eric Solorio, Project Manager

William Walters (via teleconference)

Beverly Bastian

Michael McQuirt

Alvin Greenberg, Consultant (via teleconference)  
Aspen Environmental

Scott Debauche (via teleconference)  
Aspen Environmental

Dave Flores

Shahab Khoshmashrab

Paul Marshall (via teleconference)

James Adams

APPLICANT

Scott Galati, Attorney  
Galati and Blek, LLP

Suzanne Wilson  
Lawrence S. Davis, Project Manager  
Jonathan Borrego (via teleconference)  
Public Utilities Department  
City of Anaheim

ALSO PRESENT

Jerald Cole  
Hydrogen Ventures, LLC  
on behalf of the City of Yorba Linda

Cynthia Verdugo Peralta  
Strategic Energy Environmental

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1 P R O C E E D I N G S

2 10:06 a.m.

3 HEARING OFFICER KRAMER: Welcome to the  
4 Canyon Power Plant's prehearing conference/  
5 evidentiary hearing. Today is Monday, November  
6 2nd at little after 10:00 a.m.

7 My name is Paul Kramer; I'm the Hearing  
8 Officer for this case. To my left is Presiding  
9 Member Commissioner Jeff Byron and his Advisor to  
10 his left, Kristy Chew. And Commissioner Art  
11 Rosenfeld is our Second Member. He can't be here  
12 today, but David Hungerford, his Advisor, is with  
13 us.

14 Do you want to make any opening remarks?

15 PRESIDING MEMBER BYRON: This is just  
16 the prehearing conference, correct?

17 HEARING OFFICER KRAMER: Right.

18 PRESIDING MEMBER BYRON: And then we're  
19 going to -- I'd like to welcome everyone. We have  
20 a full audience here and a couple on the phone. I  
21 have a feeling all the good work done by staff and  
22 the applicant that they will be relatively brief  
23 today.

24 So I look forward to the input and the  
25 evidence that will be presented before this

1 Committee. And I will turn it back over to our  
2 Hearing Officer, Mr. Kramer.

3 HEARING OFFICER KRAMER: Thank you. For  
4 the folks in the room I'm still getting used to  
5 these fancy microphones we have in front of us,  
6 anyway. If you want to talk you press the green  
7 button and you'll see a red light on it and a red  
8 light right around the microphone.

9 And beware that if somebody else turns  
10 theirs on, it's been my experience that sometimes  
11 yours will turn itself off. So when you go to  
12 talk, make sure it's still on. That's for the  
13 benefit of the folks on the telephone. And also  
14 our court reporter, I think, has tapped into this  
15 thing this time to help record this.

16 So far I have two blue cards, that we  
17 ask members wishing to make a public comment, to  
18 fill out. And if anyone else wants to do that,  
19 blue cards must be on the table outside. If you  
20 can't find them -- okay, in the back. So, please  
21 fill that out and pass it forward.

22 If any of you have any time constraints  
23 -- I know one of the commenters has to leave for  
24 the airport by 11:30 -- let me know so we can make  
25 sure an accommodate you. It may be that you have

1 to make your comments before we actually get to  
2 that subject area. But, we want to make sure that  
3 we can allow you to make them.

4 Mr., is it Cole?

5 MR. COLE: Yes.

6 HEARING OFFICER KRAMER: Do you have any  
7 particular topic areas that you wanted to comment  
8 on?

9 MR. COLE: Environmental and plant  
10 design, energy efficiency.

11 HEARING OFFICER KRAMER: Okay. What do  
12 you mean by environmental? That's --

13 MR. COLE: Air quality.

14 HEARING OFFICER KRAMER: Okay. And then  
15 you're talking about power plant efficiency?

16 MR. COLE: Yes.

17 HEARING OFFICER KRAMER: Okay. So, for  
18 the parties, those in the room, I've passed out an  
19 outline for today that lists the topics. We had a  
20 group 4.a. of various topics that we were going to  
21 take together as a group.

22 Because of the two commenters that I've  
23 spoken to so far, we'll need to move power plant  
24 efficiency and socioeconomic down into the topics  
25 for discussion, the 4.b. group.



1                   With that, the purpose of the prehearing  
2                   conference is basically to see if we're ready to  
3                   go to hearings; to see if there are any objections  
4                   to the evidence that's been proposed by either  
5                   party, that we should try to resolve before  
6                   entering into the hearing.

7                   I neglected to have the other parties  
8                   introduce themselves, so let me step back for a  
9                   moment and do that. Starting with the applicant,  
10                  Mr. Galati.

11                  MR. GALATI: Scott Galati representing  
12                  SCPPA.

13                  MS. WILSON: Suzanne Wilson, City of  
14                  Anaheim.

15                  HEARING OFFICER KRAMER: And then staff.

16                  MS. DYER: Deborah Dyer representing  
17                  staff.

18                  MR. SOLORIO: Eric Solorio, Project  
19                  Manager for the Energy Commission.

20                  HEARING OFFICER KRAMER: Thank you. And  
21                  we have no intervenors or other parties present  
22                  with us today.

23                  So let me ask staff first, do you have  
24                  any issues you need to raise in the prehearing  
25                  conference?

1 MS. DYER: No, we don't have any issues  
2 that need to be raised.

3 HEARING OFFICER KRAMER: And you're  
4 ready to go to hearings?

5 MS. DYER: Yes.

6 HEARING OFFICER KRAMER: And the  
7 applicant, same questions?

8 MR. GALATI: That's correct, we don't  
9 have any issues; we're ready to go to hearing.

10 HEARING OFFICER KRAMER: It looks like  
11 what's happening is we have to turn our mics off  
12 after we're done or yours will not go on.

13 MR. GALATI: I think they said that  
14 there could be four on at a time, but it looks  
15 like maybe only three.

16 HEARING OFFICER KRAMER: Well, I have to  
17 use one for me and one for the telephone, so that  
18 leaves two for the rest.

19 Okay, well, hearing that then we will go  
20 forward with the evidentiary hearing. The topics  
21 to be taken together as a group, unless there are  
22 some objections, are alternatives, general  
23 conditions and compliance, geology and  
24 paleontology, power plant reliability,  
25 transmission line safety and nuisance,

1 transmission system engineering and worker safety  
2 and fire protection.

3 So, do the parties stipulate to the  
4 submission of the evidence on those topics by way  
5 of the exhibits that have been identified in the  
6 exhibit list that you have traded with each other,  
7 and on the basis of the declarations that are  
8 attached to those exhibits?

9 MS. DYER: Staff stipulates to the  
10 evidence as presented on the evidentiary list.

11 MR. GALATI: Applicant stipulates, as  
12 well. And for summary purposes I think I can read  
13 through the list of those exhibits at the end of  
14 the hearing, if you'd like.

15 HEARING OFFICER KRAMER: Okay. I  
16 realize I think I neglected to bring an exhibit  
17 list with me, so at some point I will -- okay,  
18 well, I have a master one that I will get during  
19 the first break. And then we will, before we  
20 adjourn the hearings, we'll make sure to go over  
21 the list and see that we have not inadvertently  
22 failed to introduce any exhibit that we intended  
23 to.

24 So, hearing no objection, we will take  
25 those topics that I just mentioned into evidence

1       and accept the documents that relate to them  
2       without further discussion.

3               That'll take us then to the topics in  
4       group 4.b. on the outline: air quality,  
5       biological resources, cultural resources, facility  
6       design, hazardous materials, land use, power plant  
7       efficiency, socioeconomic resources, noise and  
8       vibration, project description and executive  
9       summary, public health, soil and water resources,  
10      traffic and transportation, visual resources and  
11      waste management.

12              And we'll do those one at a time,  
13      beginning with air quality, since Mr. Walters is  
14      on the telephone.

15              Prior to taking any testimony we should  
16      have the witnesses sworn in. So, Mr. Walters,  
17      you're on the telephone; Mr. Greenberg, you are,  
18      as well. And I'd ask anyone in the room who  
19      believes that they may need to testify to please  
20      stand and the court reporter will swear you in.

21              And before you do that, is there anyone  
22      else who has joined us on the telephone?

23              MR. MARSHALL: Yes. This is Paul  
24      Marshall with the soil and water resources unit at  
25      the Energy Commission.

1 HEARING OFFICER KRAMER: Anyone else?  
2 MR. WEDEA: Hank Wedea.  
3 HEARING OFFICER KRAMER: Could you spell  
4 your name?  
5 MR. WEDEA: W-e-d-e-a.  
6 HEARING OFFICER KRAMER: C-e-d-e-a. Oh,  
7 MR. SPEAKER: W-e-d--  
8 HEARING OFFICER KRAMER: Oh, W.  
9 MR. WEDEA: -- -e-a.  
10 HEARING OFFICER KRAMER: And your first  
11 name?  
12 MR. WEDEA: Hank.  
13 MR. SPEAKER: Hank.  
14 HEARING OFFICER KRAMER: Hank, okay.  
15 Are you going to testify, Mr. Wedea?  
16 MR. WEDEA: No, I'm not.  
17 HEARING OFFICER KRAMER: Okay, are you  
18 making a public comment, then, or --  
19 MR. WEDEA: I'm just listening today.  
20 HEARING OFFICER KRAMER: Okay, thank  
21 you. Okay, Mr. Marshall, you'll join in with the  
22 others, then, and be sworn.  
23 MR. MARSHALL: Okay.  
24 THE REPORTER: If you could all  
25 collectively raise your right hands, please.

1       Whereupon,

2                       ALL PROSPECTIVE WITNESSES

3       were called as a witness herein, and after first  
4       having been duly sworn, were examined and  
5       testified as follows:

6                       HEARING OFFICER KRAMER:   Okay, Mr.  
7       Galati, you have one proposed change to an air  
8       quality condition.  Would you like to present that  
9       at this point.

10                      MR. GALATI:  Mr. Kramer, in the interest  
11       of time, we proposed that in our testimony.  I can  
12       certainly summarize it here, or have the witness  
13       summarize it.  I was just going to ask that the  
14       declaration testimony be moved into evidence at  
15       this time.

16                      HEARING OFFICER KRAMER:  Okay.  Does  
17       staff object to that?

18                      MS. DYER:  No, no objection.

19                      HEARING OFFICER KRAMER:  Mr. Walters, do  
20       you understand the change that Mr. Galati is  
21       proposing, the applicant's proposing?

22                      DR. WALTERS:  Yes, actually there were  
23       two minor changes.  One was a revision to air  
24       quality SC-3, subpart (i); and the other was a  
25       correction to the verification of AQ-16.

1 I've reviewed both and provided some  
2 revision text to the project manager in an  
3 addendum errata; a three-page document.

4 And I have essentially accepted those  
5 two items.

6 HEARING OFFICER KRAMER: Okay. I guess,  
7 Mr. Solorio, do you have Mr. Walters' proposed  
8 addenda?

9 MR. SOLORIO: No, I do not have that.

10 HEARING OFFICER KRAMER: Okay, why don't  
11 -- because I would gather that Mr. Galati would  
12 like to see that.

13 So, Mr. Walters, when did you send that  
14 to him?

15 DR. WALTERS: It was sent through Matt  
16 Layton last week.

17 HEARING OFFICER KRAMER: Okay, well, Mr.  
18 Solorio will track that down and then -- we'll  
19 leave this topic open for the time being then.

20 And, Mr. Walters, I had a couple  
21 questions for you reviewing the air quality  
22 section. And the first relates to page 4. --  
23 actually the -- yes, 4.1-27. And the second  
24 paragraph on that page.

25 And I believe that the references there

1       should have been to air quality table 7, as  
2       opposed to 8. Or maybe I'm wrong there. If you  
3       could correct me.

4               But then I had a question why are you  
5       not using dynamic commissioning for the modeling.

6               DR. WALTERS: I'm not sure I understand  
7       the question. But the first part is the worst  
8       case emissions are presented in table 8, so that  
9       reference is correct.

10              HEARING OFFICER KRAMER: Okay. Okay, I  
11       think the -- yeah, I see where I went wrong,  
12       because it looked to me like table 7 was the  
13       appropriate table. I saw that the dynamic  
14       commissioning emissions in table 7 were greater  
15       than those in table 8. And it seemed that those,  
16       perhaps, should be the maximums. But I gather you  
17       don't believe that to be the case?

18              DR. WALTERS: Well, the key is those are  
19       pounds for the entire period of hours would fit in  
20       the second column. So, you have to divide the  
21       total pounds by the number of hours to come up  
22       with the maximums, which are then presented in  
23       table 8.

24              HEARING OFFICER KRAMER: Okay. Thank  
25       you. Turning to page 4.1-31, this is about the



1 additional pound of VOC that is necessary.  
2 Normally the Commission requires that all ERCs,  
3 except for the reclaimed credits, be identified  
4 prior to certifying a project.

5 Yet, in this case I gather staff is  
6 proposing to let the applicant identify that  
7 credit at some later point post-certification, so  
8 long as it's prior to the issuing of the permit to  
9 construct and the beginning of construction.

10 Can you explain the rationale for doing  
11 that?

12 DR. WALTERS: Well, this has happened in  
13 a few previous cases where there's been either a  
14 discrepancy between what staff requires and what  
15 the district requires, or staff is recommending, I  
16 should say, and what the district requires.

17 Or, if there have been some  
18 recalculations late in the process, if we get an  
19 FDOC from the district, even though there is a  
20 very small gap, and with the knowledge that there  
21 should not be a significant problem for the  
22 applicant to obtain that very small amount of  
23 ERCs, we are willing to go forward.

24 In a case where there are no ERCs and we  
25 would find that it might be difficult for the

1 applicant to obtain them, then, of course, we  
2 would have problems.

3 HEARING OFFICER KRAMER: So you don't  
4 think that's going to be a problem at all here,  
5 then?

6 DR. WALTERS: No, not for VOC. VOC is  
7 probably the one type of ERC that is definitely  
8 the easiest to obtain within the South Coast  
9 District.

10 HEARING OFFICER KRAMER: Now, condition  
11 AQSC-7 lists all of -- that's on page 4.1-57 --  
12 lists all the certificates that the applicant  
13 currently has. Do the conditions require that  
14 this additional certificate be added when it's  
15 identified?

16 DR. WALTERS: Yeah, in fact there's  
17 additional pound required at both VOC and SO2.  
18 It's identified in the second sentence of the  
19 condition.

20 HEARING OFFICER KRAMER: Okay. Would  
21 that require, then, an amendment to this condition  
22 to add them to the table?

23 DR. WALTERS: I'm not sure if it would  
24 be anything more than a minor amendment.

25 HEARING OFFICER KRAMER: But it still

1 would have to go to the full Commission because  
2 there really is no such thing as a minor amendment  
3 to a condition.

4 And on that same condition the  
5 verification label right now is in front of the  
6 paragraph that begins: The project owner shall  
7 provide the ERC certificate information for the  
8 additional pound per day of VOC and SO2.

9 I'm wondering if that paragraph  
10 shouldn't be part of the main condition and  
11 removed from the verification. And the  
12 verification label therefore moved down to just in  
13 front of the paragraph that follows it.

14 Or was it intentionally set up this way  
15 to allow more flexibility in dealing with the late  
16 provision of those credits?

17 DR. WALTERS: Well, you're talking about  
18 just moving that first sentence of verification up  
19 in -- or --

20 HEARING OFFICER KRAMER: No, just the  
21 label verification; just moving it down a  
22 paragraph. The idea being that verifications,  
23 under our rules, can be changed by staff without  
24 the same level of scrutiny that an amendment would  
25 receive.

1 DR. WALTERS: I'm not exactly sure the  
2 benefit of moving it. Maybe you could explain a  
3 little further?

4 HEARING OFFICER KRAMER: Well, on the  
5 one hand, this may have answered my previous  
6 question, because this may make it possible for  
7 staff to accept those certificates without going  
8 to the trouble of a formal amendment that has to  
9 go to the full Commission.

10 Because, as I said a minute ago, they  
11 can change verifications, in effect, on their own  
12 authority, in at least many cases.

13 On the other hand, you know, generally  
14 speaking the Commission, as I understand it, has  
15 adopted this approach of putting all the  
16 certificates in a table so that the applicant will  
17 be bound to use those certificates, or come in and  
18 provide substitutes and allow the Commission the  
19 time and the ability to decide if the substitute  
20 conditions are -- the substitute credits are  
21 adequate.

22 DR. WALTERS: Yeah, and I think where  
23 they are already identified and they are in the  
24 table, you know, that certainly is suitable. But  
25 where we have just a single pound for VOC and SO2,

1       you know, those, when we get those they'll  
2       essentially be ready to be submitted with whatever  
3       time we have to review them.

4               So I wouldn't expect that they would  
5       substitute those later. And so once things are  
6       submitted, you know, then there would not really  
7       be a need, you know, for continuation or change of  
8       this condition.

9               HEARING OFFICER KRAMER: Mr. Galati.

10              MR. GALATI: Yeah, I have a possible  
11       solution here. I see what the Committee is  
12       interested in.

13              I can tell you that I was unable to  
14       secure a letter from the South Coast certifying to  
15       the offsets unless staff received one. They are  
16       currently off today, so they will not be calling  
17       in to testify. So I'm going to ask for air  
18       quality to be left open so that letter could come  
19       in.

20              I have a proposal I would be more than  
21       happy to provide for staff and Committee review on  
22       doing that exact thing.

23              I would delete the word "addition" from  
24       the conditions and have the condition apply only  
25       to the table. Then if the table changes, i.e., we

1 don't use those certificates, then we would come  
2 for a condition change.

3 But if I took the word "addition" out,  
4 an addition of one pound is contemplated, then I  
5 don't believe that we would need to revise the  
6 table nor the condition. We could just report the  
7 one pound to staff.

8 So, I could propose that language  
9 certainly by tomorrow, and put it into the record  
10 for staff to consider, since I believe we have to  
11 leave the air quality record open for the district  
12 letter.

13 HEARING OFFICER KRAMER: Okay. Staff  
14 object to that approach?

15 DR. WALTERS: No.

16 MS. DYER: No. I think that will  
17 address the Committee's concern, as well.

18 HEARING OFFICER KRAMER: Okay, Mr.  
19 Walters, returning to the two conditions previous,  
20 AQSC-5. There's a subparagraph (e) or subsection  
21 (e) rather. It appears to me that that -- we  
22 should just delete the (e) because that's really a  
23 part of -- just a continuation of the condition  
24 subpart (d) above it. Would you agree?

25 DR. WALTERS: Yeah, I think that's

1       actually a typo.

2                   HEARING OFFICER KRAMER:   Okay, we'll  
3       take care of that.

4                   Turning to condition AQ-1, my question  
5       isn't specific to this condition, but it's a  
6       general one that will crop up in this section, and  
7       also, at least in public health, and perhaps  
8       others.

9                   We understand that the applicant has  
10      agree to limit the operations of the plant to less  
11      than 24/7, 365 days a year.   In part to be able to  
12      obtain offsets, given the market conditions.

13                  But what I'm looking for is an  
14      understanding of where that requirement, in other  
15      words the limit on the operating hours, is in the  
16      conditions that are being proposed for this  
17      project.

18                  It looks to me that the limits on  
19      emissions in AQ-1 have the effect of limiting the  
20      hours based on all the assumptions that are made  
21      about you know, how much the machines will emit.

22                  But I don't see in here anywhere any  
23      explicit statement that the public or even staff  
24      could point to, to be able to say that the limit  
25      is X hours over the course of a year.   Which I

1 believe is the way it's been handled.

2 Did I miss something, or can you point  
3 me to something? Or am I right that AQ-1 is  
4 basically the statement of those limitations?

5 DR. WALTERS: Yes, it's the primary  
6 limitations for those three that are identified.  
7 And, yes, it's essentially the operating profile  
8 that was proposed by the applicant, the last  
9 operating profile, the one that would permit it.  
10 It's based on, or used -- or becomes the basis for  
11 AQ-1 in terms of the monthly emission limits.

12 So, you know, there is a certain amount  
13 of flexibility for operation at lower loads, and,  
14 you know, fewer startups would allow, you know, a  
15 few more hours of operation.

16 So, you're right, there is not a  
17 specific hour limitation in the condition that  
18 were identified by SCAQMD. And in our discussions  
19 with them, they, you know, they basically identify  
20 that they use emissions as their limits, you know,  
21 based on their NSR rule.

22 MR. GALATI: Mr. Kramer, if I could add  
23 some clarification to that, as well. The South  
24 Coast has a different method of offsetting than  
25 many other districts. Many other districts



1       require an annual offset, and that would back into  
2       the number of hours that you could operate. And  
3       sometimes you surrender offsets on a quarterly  
4       basis.

5               The way the South Coast calculations are  
6       is they require you to offset for your worst case  
7       month. So in the case of a peaking unit you would  
8       be identifying the time of the year and the worst  
9       case month that you would operate. And they  
10      require the offsets to be surrendered for that  
11      worst case month.

12             They don't make a distinction for, for  
13      example, in the month of November maybe you  
14      operate zero. You surrender the offsets the way  
15      the offsets work based on that worst case month as  
16      if you were operating every single month.

17             Even with that worst case month  
18      analysis, it does not show 24/7 operation. And  
19      the limitations on the operation are more of a  
20      practical nature that the project, it's uneconomic  
21      to operate a peaker like a baseload.

22             And, again, if we were in another  
23      district you would get a total number of pounds or  
24      tons per year. And then that would be spread out  
25      over the year. You could use them all up in two

1 months and then not be able to operate at all.  
2 It's just a quirk with the way the South Coast  
3 actually deals with offsets, sort of their  
4 currency.

5 HEARING OFFICER KRAMER: Okay. As a  
6 practical matter, is it possible for the  
7 applicant, if they creatively manage the units, to  
8 exceed the operating hours that you proposed?

9 MR. GALATI: I guess it is theoretically  
10 possible for us to operate at the worst case month  
11 every month. That is theoretically possible.

12 There are other limitations on water use  
13 and other things. And in our project description,  
14 I would say to you that we would be violating our  
15 project description if we operated in that  
16 fashion.

17 So I don't believe a condition is  
18 necessary. If the Committee would like to  
19 entertain one, we'd be more than happy to put our  
20 heads together with staff to insure that.

21 HEARING OFFICER KRAMER: Okay, thank  
22 you. Mr. Walters, turning to the greenhouse gas  
23 analysis, page 4.1-84. At the end of the  
24 paragraph right above the introduction heading,  
25 you refer to the performance standards, greenhouse

1 gas emission performance standard.

2 Which code is that part of? You didn't  
3 list, say, the Public Resources Code or Public  
4 Utilities Code. Do you know, offhand, which that  
5 is?

6 DR. WALTERS: Let's see, I'm looking at  
7 the LORS table. It is Title 20, code regulation  
8 section 2900 sequence. So if you look at the  
9 greenhouse gas table 1, the third row down.

10 HEARING OFFICER KRAMER: Okay. So it  
11 wasn't actually a code, then, it was a Title.  
12 Okay, thank you.

13 In the first full paragraph on page 4.1-  
14 86, near the end, it talks about generating  
15 facilities over zero megawatt capacity.

16 DR. WALTERS: Yeah, that's a typo.  
17 Should be 1.

18 HEARING OFFICER KRAMER: One megawatt?

19 DR. WALTERS: Yes.

20 HEARING OFFICER KRAMER: Okay, thank  
21 you. That does it for air quality from the  
22 Committee's standpoint.

23 Now, Mr. Galati, you've asked to keep  
24 the record open to receive the certification from  
25 the air district pursuant to section 25523,

1 correct?

2 MR. GALATI: That's correct. The  
3 certification that offsets have been identified  
4 and will be obtained prior to -- in accordance  
5 with the district rules.

6 HEARING OFFICER KRAMER: Okay. And you  
7 expect to be able to get that in the next week or  
8 so?

9 MR. GALATI: Yes. I was expecting it by  
10 Friday. So, yes, I have that same expectation.

11 HEARING OFFICER KRAMER: Okay. I think  
12 we'll hold the record, then, open on air quality.

13 MR. GALATI: Mr. Kramer, I can provide  
14 some additional information with my witness here  
15 today, now that I understand the question about  
16 operating hours. We certainly can describe what  
17 our proposed operating hours are, what they were  
18 based on, if the Committee would like to hear  
19 that.

20 HEARING OFFICER KRAMER: I think that  
21 would be useful for the record, just briefly.

22 MR. GALATI: Okay. I'm going to call  
23 Suzanne Wilson, who's previously been sworn, from  
24 the City of Anaheim. We're going to share this  
25 microphone, so I'm going to ask an open-ended

1 question.

2 HEARING OFFICER KRAMER: You'll probably  
3 have --

4 MR. GALATI: We've got to turn it off,  
5 anyway.

6 So, basically, Ms. Wilson, you've heard  
7 the dialogue about the operating hours and the  
8 emission limits for AQ-1. Can you provide some  
9 clarity as to what the emission offsets were based  
10 on and what the project's planned operating hours  
11 are?

12 MS. WILSON: Sure. We figured out what  
13 our worst month would be, which is going to be a  
14 summer month. And we figured out reasonably what  
15 we could operate each gas turbine on a per-month  
16 basis. And that was based on our operational  
17 needs, as well as cost of offsets.

18 And so when you take your max monthly,  
19 what that equates to is 90 hours per month per  
20 turbine with 20 starts. So that's about 4320  
21 hours per year for the whole facility.

22 HEARING OFFICER KRAMER: And that's  
23 individual turbine hours?

24 MS. WILSON: It's facility hours. So  
25 each turbine is 90 hours per month. And you can

1 do that for 12 months. But when you add it all up  
2 it's 4320 hours.

3 HEARING OFFICER KRAMER: Thank you.  
4 Staff, did you want to ask any questions of this  
5 witness?

6 MS. DYER: No questions.

7 HEARING OFFICER KRAMER: Okay, so then  
8 we will keep the record open for the letter from  
9 the South Coast Air District, and any proposals  
10 Mr. Galati wishes to make regarding the offset  
11 table in the conditions.

12 MR. GALATI: Great. I can also take  
13 care of one other outstanding item. We just  
14 received the air quality addendum errata,  
15 testimony of Will Walters, addressing our proposed  
16 changes to AQSC-3 and AQ-16.

17 So, Ms. Wilson, have you reviewed that  
18 document?

19 MS. WILSON: Yes, I have.

20 MR. GALATI: Do you agree with staff's  
21 changes?

22 MS. WILSON: Yes.

23 MR. GALATI: No further questions.

24 HEARING OFFICER KRAMER: Any questions  
25 from staff?

1 MS. DYER: No questions.

2 HEARING OFFICER KRAMER: Thank you.

3 Staff had asked you forward an electronic copy of  
4 this to me when you get a chance.

5 Okay, that will close air quality.

6 MS. DYER: Can I clarify a point,  
7 please.

8 HEARING OFFICER KRAMER: Sure.

9 MS. DYER: Does the Committee want staff  
10 and the applicant to devise a condition that  
11 limits the hours of operation to the maximum?

12 HEARING OFFICER KRAMER: I don't think  
13 so.

14 MS. DYER: Okay, thank you.

15 HEARING OFFICER KRAMER: And, let's see,  
16 the air quality addendum errata from Mr. Walters  
17 will be your next-in-line exhibit, which I believe  
18 would be exhibit 201.

19 MS. DYER: 201, that's correct.

20 MR. GALATI: Mr. Kramer, would you like  
21 me to move exhibits in as we go through topic, or  
22 just wait till the end?

23 HEARING OFFICER KRAMER: Let's wait till  
24 the end when I've got that master list, the  
25 updated version. And then we'll all work from the

1 same page.

2 Okay, the next topic was biological  
3 resources. I do not believe that the applicant  
4 had any issues. And the only question from the  
5 Committee was that the introduction to that  
6 section of the FSA mentioned a condition of bio-2,  
7 but there was no such condition proposed.

8 So I wanted to just ask whether the  
9 introduction was in error, or the conditions? In  
10 other words, should we have a bio-2 in this case?

11 MR. SOLORIO: Bio-2 in the introduction  
12 was in error.

13 HEARING OFFICER KRAMER: So the only  
14 condition proposed is condition bio-1?

15 MR. SOLORIO: Correct.

16 HEARING OFFICER KRAMER: Thank you.  
17 Does the applicant have any comments?

18 MR. GALATI: No, we'll just move our  
19 exhibits in at the end, thanks.

20 HEARING OFFICER KRAMER: Okay, thank  
21 you.

22 Cultural resources. Do you need a  
23 moment to get them --

24 MS. BASTIAN: I need --

25 HEARING OFFICER KRAMER: Okay. Could



1       you come up to the microphone over to the  
2       reporter's right? And then identify yourselves  
3       for the record.

4               MS. BASTIAN: I'm Beverly Bastian; I do  
5       cultural resources for the California Energy  
6       Commission.

7               MR. McQUIRT: I'm Michael McQuirt; I'm  
8       an archeologist at the California Energy  
9       Commission.

10              HEARING OFFICER KRAMER: Thank you.  
11       I'll just treat you as a panel and ask a few  
12       questions; either of you can answer.

13              My first question was on the FSA at 4.3-  
14       33. I'm sorry, that's a note to myself. Turn  
15       forward to page 4.3-36. Under operation impacts  
16       and mitigation, there's a statement made in the  
17       last sentence of that paragraph to the effect that  
18       the conditions of certification continue to apply  
19       to all the activities of the project, I gather,  
20       after construction is completed and the operation  
21       has begun.

22              And I wanted -- can you point to  
23       specific language that achieves that? Or is that  
24       just an assumption that staff operates under?

25              MS. BASTIAN: That is an assumption.

1                   HEARING OFFICER KRAMER:  Would that mean  
2                   then that the cultural resource specialist who was  
3                   identified and worked for the applicant during the  
4                   construction period would continue to be on their  
5                   staff.  And if they replaced that person they  
6                   would have to go through the process of  
7                   identifying the new person?

8                   MS. BASTIAN:  No, that would not be  
9                   necessary.  And some modification can be made  
10                  somewhere if that needs to be clarified.

11                  HEARING OFFICER KRAMER:  Well, --

12                  MS. BASTIAN:  Our assumption is  
13                  generally that if something were encountered, say,  
14                  during a repair of a pipeline or something of the  
15                  kind, then that would invoke a need to obtain a  
16                  cultural resources specialist and et cetera.

17                  HEARING OFFICER KRAMER:  I guess I'm  
18                  always in favor of conditions that we don't have  
19                  to spend a lot of time arguing about the  
20                  interpretation down the road.

21                  How many of these conditions do you  
22                  really intend to survive the end of construction?  
23                  I gather it's the substantive conditions rather  
24                  than the procedural conditions.

25                  MS. BASTIAN:  The conditions that would

1       need to survive and apply in later situations are  
2       those that address the heart of the issue of  
3       encountering previously unknown buried  
4       archeological resources of some sort. And then  
5       the need to identify, evaluate and treat them.

6               And so if those are the substantive, as  
7       opposed to procedural in your mind, that's what  
8       would be intended.

9               HEARING OFFICER KRAMER: So is that all  
10       pretty much encompassed in the cultural resources  
11       monitoring and mitigation plan, would you say?  
12       Those requirements?

13              MS. BASTIAN: It should be in there,  
14       yes.

15              HEARING OFFICER KRAMER: So do you think  
16       it would do the job if we added something to the  
17       effect that that plan and its requirements will  
18       continue in effect after the project begins  
19       commercial operation?

20              MS. BASTIAN: That sounds like a  
21       reasonable proposal. May I take a little time to  
22       reflect on that? I mean not this moment, but to  
23       get back to you about it?

24              HEARING OFFICER KRAMER: I think we can  
25       certainly keep the record open for a week or so,

1 along with the air quality, to receive comments on  
2 that.

3 MR. GALATI: Mr. Kramer, we'd be  
4 amenable to that change. I also wanted to let you  
5 know this particular project is different. I  
6 think it's one of the first that the monitoring  
7 requirements have been pretty much relaxed and  
8 focused on the jack-and-bore. And I think one  
9 deep excavation.

10 So, I think, as it states now, clearly  
11 there's portions of the CRM that would involve if  
12 you find something what do you do. But I don't  
13 know if there would be continued monitoring in  
14 areas where there was no need for monitoring.

15 But in those areas where there is need  
16 for monitoring, if the repair was in the jack-and-  
17 bore location, we would anticipate using a  
18 monitor.

19 HEARING OFFICER KRAMER: Okay, thank  
20 you. I have a couple of specific questions for  
21 either of you witnesses. In condition cultural-1,  
22 in the verification, paragraphs 4 and 5.

23 Paragraph 4 requires five days prior  
24 notice. And paragraph 5 requires ten days prior  
25 notice. I'm wondering if those two time limits

1       aren't backwards. In other words, 4 should say  
2       ten days and 5 should say five days? As I read  
3       them, it looked --

4               MS. BASTIAN: Okay, I was still kind of  
5       juggling to locate what you're asking about.  
6       Number 4 that has five days prior to additional  
7       CRMs, we need to have those identified. And then  
8       5, at least ten days prior to specialists, the  
9       r, sum, .

10              And you're suggesting did we mean  
11       perhaps the other way around?

12              HEARING OFFICER KRAMER: Yes.

13              MS. BASTIAN: Okay. The five days for  
14       the CRMs we figure is sufficient because we do  
15       not, the compliance section and the cultural  
16       resources staff do not necessarily carefully vet  
17       the CRMs. We trust that the attestation of the  
18       CRS is sufficient to their qualifications.

19              Whereas for number 5 for the other any  
20       additional technical specialists we do require a  
21       r, sum, , which we do take time to review and desire  
22       to approve. So we've allowed a little more time  
23       for that.

24              HEARING OFFICER KRAMER: So if we added  
25       the phrase technical specialist, other than the

1 CRMs, would that take care of it?

2 MS. BASTIAN: It perhaps would. I have  
3 no objection to doing that. But I think we have,  
4 in the body of the condition, somewhat  
5 distinguished the CRMs from what would be  
6 considered other technical specialists.

7 HEARING OFFICER KRAMER: Well, if it's  
8 clear to you I guess --

9 MS. BASTIAN: On page 4.3-39 --

10 HEARING OFFICER KRAMER: -- we can let  
11 it go at that.

12 MS. BASTIAN: Again, I have no objection  
13 to adding that.

14 HEARING OFFICER KRAMER: Okay, thank  
15 you. On page, rather condition cultural-7, in the  
16 second paragraph, second line. It refers to the  
17 CPM as determining whether or not a cultural  
18 resource is exceptionally significant.

19 Shouldn't that be the CRS, somebody  
20 who's onsite?

21 MS. BASTIAN: In this instance, because  
22 the CPM and the cultural resources staff have the  
23 responsibility under CEQA for determining the  
24 significance of any found, newly discovered  
25 resources that turn up during construction, it

1 would be the responsibility of the CPM to decide  
2 if the find, if it's less than 50 years old, would  
3 be considered exceptionally significant enough to  
4 meet the criteria of the National Register and the  
5 California Register.

6 HEARING OFFICER KRAMER: Okay, --

7 MS. BASTIAN: The CRS would certainly be  
8 able to make a recommendation, but it would be the  
9 decision of the CPM.

10 HEARING OFFICER KRAMER: And that  
11 process would take some time, though, so if  
12 construction isn't halted while that goes on, then  
13 it's possible the resource could be affected.

14 MS. BASTIAN: In any event during under  
15 Cul-7 where there is a discovery, there is the  
16 potential for it to take a little while to make a  
17 decision about significance.

18 It's pretty unusual to find something of  
19 50 years of age that's going to be exceptional  
20 enough to be significant. So that is less likely  
21 to slow a project down than just the usual attempt  
22 to determine, under the normal criteria of things  
23 that are over 50 years of age, whether or not it's  
24 significant and how it has to be handled.

25 But, as the rest of that condition

1 indicates, we require really very immediate  
2 notification. And apart from a weekend, we do our  
3 very best to make a determination and provide a  
4 course of action that facilitates projects being  
5 able to resume work as quickly as possible.

6 Including such things as just setting up  
7 a zone in which the work is halted, but work may  
8 continue elsewhere. And making sure that there's  
9 a CRS who can evaluate and make a recommendation  
10 as quickly a possible.

11 In other words, we've tried to  
12 anticipate that as a concern and address it as  
13 carefully as we can.

14 HEARING OFFICER KRAMER: Okay. Those  
15 are all the questions I had. Did either staff or  
16 the applicant wish to ask anything of these  
17 witnesses?

18 MS. DYER: No, I don't have any  
19 questions.

20 MR. GALATI: No questions.

21 HEARING OFFICER KRAMER: Okay, thank  
22 you. We will keep the record open in order to  
23 receive that. Could you describe, again, the  
24 proposal which you're going to comment on, Ms.  
25 Bastian?



1 MS. BASTIAN: What I'm thinking may be  
2 most useful, as you've, I think, suggested. See  
3 if the PRIMP, and the way that that is specified  
4 in Cul-2, can be rewritten to cover more of the  
5 incidences, any later discoveries in a way that's  
6 adequate and does not necessarily entail the  
7 application of all the other conditions to that  
8 later circumstance.

9 Oh, it's Cul-3, I'm sorry.

10 HEARING OFFICER KRAMER: Okay, thank  
11 you.

12 MS. BASTIAN: That's your understanding,  
13 as well, then?

14 HEARING OFFICER KRAMER: Yes. Yes, I  
15 think that'll lead to clearer conditions for what  
16 hopefully will not be a lot of -- in the  
17 compliance phase, but you never know.

18 MS. BASTIAN: Right.

19 HEARING OFFICER KRAMER: Facility  
20 design. Mr. Galati, in your prehearing conference  
21 statement and attached testimony you had a few  
22 suggestions, I believe. Yes, -- or one  
23 suggestion?

24 MR. GALATI: Our primary suggestion was  
25 that we have updated facility design table 2,

1 major structures, to make sure we have the right  
2 quantity and everything in there.

3 We have found that sometime between the  
4 AFC and the licensing, when those numbers change a  
5 bit, that technically that would require an  
6 amendment. So we, in order to try and avoid an  
7 amendment, revised and updated a new facility  
8 design table 2. And we just ask that that be  
9 included in the condition.

10 And we actually have it marked as  
11 exhibit, I believe, 74, but I'll double-check.

12 HEARING OFFICER KRAMER: That's what I  
13 see here.

14 MR. GALATI: Yes, 74.

15 HEARING OFFICER KRAMER: Okay. Does  
16 staff have any objections to substituting that  
17 design table?

18 MS. DYER: Staff does not have any  
19 objections.

20 HEARING OFFICER KRAMER: Okay, thank  
21 you. That concludes facility design, then.

22 Hazardous materials. Again, Mr. Galati,  
23 I believe the applicant had a proposal there?

24 MR. GALATI: Yes, and this is a similar  
25 -- the condition Haz-1 says you cannot use any

1 hazardous material in any quantity that is  
2 different than on that list.

3 And similar, as projects go through more  
4 refinement, we have submitted a new revised  
5 hazardous materials list. And that's exhibit 57  
6 to be included in that, or at least to be included  
7 in the record as it is referred to in the  
8 condition. And the purpose, again, is to avoid an  
9 amendment.

10 HEARING OFFICER KRAMER: Does staff have  
11 any questions or objections to the revised --

12 DR. GREENBERG: Staff has no objections.

13 HEARING OFFICER KRAMER: Stick around,  
14 Mr. Greenberg, I have some more questions for you  
15 on public health.

16 DR. GREENBERG: Yes, sir.

17 HEARING OFFICER KRAMER: Mr. Walters,  
18 though, if you're still here, you're free to go.

19 DR. WALTERS: All right, thank you.

20 HEARING OFFICER KRAMER: And, Mr.  
21 Galati, thank you on behalf of the Committee for  
22 trying to anticipate and avoid some of the  
23 amendments that we keep seeing down the road after  
24 projects are approved. It's better to get more of  
25 those details right at this stage than to wait

1 till later.

2 MR. GALATI: Having been chastised for  
3 not thinking it sooner, I'll consider us even.

4 (Laughter.)

5 HEARING OFFICER KRAMER: I'm going to  
6 have to parse that later.

7 Land Use and Noise. Mr. Solorio, do you  
8 need a moment? Your witnesses are here?

9 MR. SOLORIO: Yes, actually they're both  
10 here.

11 HEARING OFFICER KRAMER: Okay. Because  
12 the issues interrelate, I would suggest that we  
13 take these two together. At least the Committee's  
14 issues interrelate. So, if the two witnesses  
15 could come up to the microphone.

16 MR. GALATI: Mr. Kramer, I'm not sure if  
17 Jonathan Borrego is on the phone. Jonathan, are  
18 you on the phone?

19 MR. BORREGO: Yes, I am.

20 MR. GALATI: And I don't know if  
21 Jonathan was here to be sworn.

22 MR. BORREGO: Yes, I am here.

23 HEARING OFFICER KRAMER: Were you here  
24 at the start when we swore the witnesses?

25 MR. BORREGO: No, I was not.

1                   HEARING OFFICER KRAMER: Okay. Do we  
2                   have anybody else who's on the telephone since we  
3                   last took the telephone roll call?

4                   MR. DEBAUCHE: Yes, this is Scott  
5                   Debauche with Aspen Environmental Group. I'm  
6                   socioeconomic staff, and I understand that there  
7                   was a question on that earlier.

8                   HEARING OFFICER KRAMER: Okay. I didn't  
9                   catch your name.

10                  MR. DEBAUCHE: Scott --

11                  HEARING OFFICER KRAMER: Scott --

12                  MR. DEBAUCHE: Debauche.

13                  HEARING OFFICER KRAMER: B-u-s-h?

14                  MR. DEBAUCHE: D-e-b-a-u-c-h-e.

15                  HEARING OFFICER KRAMER: Okay, one more  
16                  time. Could you spell --

17                  MR. DEBAUCHE: D, like dog, -e-b, like  
18                  bob, -a-u-c-h-e.

19                  HEARING OFFICER KRAMER: Debauche, okay.  
20                  Could both you, and I'm sorry, Jonathan, I didn't  
21                  write down your last name.

22                  MR. BORREGO: It's Borrego,  
23                  B-o-r-r-e-g-o.

24                  HEARING OFFICER KRAMER: Okay. Is there  
25                  anyone else on the telephone, especially who might

1 be testifying a little later? Okay, --

2 MR. SOLORIO: Mr. Kramer, excuse me. I  
3 believe I stepped out of the room when you swore  
4 in the witnesses.

5 HEARING OFFICER KRAMER: Well, then, if  
6 you could stand, along with Mr. Borrego and Mr.  
7 Debauche on the telephone, the court reporter will  
8 swear you as witnesses.

9 Whereupon,

10 JONATHAN BORREGO, SCOTT DEBAUCHE, ERIC SOLORIO  
11 were called as a witnesses herein, and after first  
12 having been duly sworn, were examined and  
13 testified as follows:

14 HEARING OFFICER KRAMER: Okay, so, Mr.  
15 Galati, you wanted Mr. Borrego to be in on the  
16 land use discussion, is that correct?

17 MR. GALATI: Yes, please.

18 HEARING OFFICER KRAMER: Okay. I think  
19 it's easiest if I describe to you how I got to --  
20 came to the questions that I'm about to ask.

21 In the noise section of the staff  
22 assessment, it describes a document, appendix G,  
23 as in George, to the AFC. And it calls it a  
24 variance letter. It's basically from Steve  
25 Sciortino -- how badly did I mangle this name?

1                   MR. GALATI: That's actually to Steve  
2                   Sciortino from Sheri Vander Dussen, the Planning  
3                   Director.

4                   HEARING OFFICER KRAMER: Okay. And  
5                   it -- I read that because it occurred to me that,  
6                   you know, the Energy Commission is the permitting  
7                   agency here and if there are any variances to be  
8                   granted, they would be granted by the Energy  
9                   Commission and not by the city to itself.

10                  And so I was really curious about this  
11                  letter when I read it. I saw that, in effect, it  
12                  wasn't really granting a variance; it was just  
13                  pointing out that two provisions of the city's  
14                  ordinances exempt -- in the case of noise they  
15                  exempt governmental units from the noise standard  
16                  that would otherwise apply to a property owner.

17                  And in the case of the land use rules in  
18                  Title 18, I think it is, in the municipal code, it  
19                  exempts the city from those requirements.

20                  So that led me, then, to look in land  
21                  use and see how it was handled there. And in land  
22                  use I discovered basically that staff had  
23                  concluded that the city had followed all of its  
24                  own development standards that were in the  
25                  municipal code.

1                   And again, going back to appendix G, it  
2                   seemed to note that a 20-foot-high decorative  
3                   block wall would not be permitted by, at least  
4                   normally, by the city's development standards.

5                   So, the approaches in the two sections  
6                   are consistent. I wanted to ask the staff, and  
7                   perhaps the applicant's witness, what exactly do  
8                   the LORS require here?

9                   First, is the city subject to, land use,  
10                  the municipal code requirements or not? And if  
11                  not, what standards apply, if any, to the  
12                  development as the applicant is proposing it?

13                  I guess I'd like first to address those  
14                  questions to the staff, and then to the applicant.  
15                  So, please, first --

16                  MR. BORREGO: This is Jonathan Borrego,  
17                  Principal Planner with the City of Anaheim  
18                  Planning Department.

19                  HEARING OFFICER KRAMER: Jonathan, I  
20                  meant the Commission Staff.

21                  MR. BORREGO: I'm sorry.

22                  HEARING OFFICER KRAMER: So, hold on.  
23                  And please, first identify yourselves for the  
24                  record.

25                  MR. FLORES: Dave Flores, Planner II at



1 the time that I prepared the document both for  
2 land use and for traffic.

3 Staff recognized within the section of  
4 the AFC which discussed the appendix G, I believe,  
5 which was the letter from the City of Anaheim to  
6 the Director of Planning, indicating that they  
7 are, in fact, exempt from the zoning code.

8 And staff looked within their zoning  
9 regulations under section 18.90.030.040 which  
10 indicates it verified, from staff's standpoint,  
11 that this requirement is correct under their  
12 letter.

13 Also within the AFC it discussed that  
14 there was a lot-line adjustment that was required.  
15 And it was prepared and approved prior to making  
16 application with an AFC. And staff also noted  
17 that within the AFC.

18 And so staff was comfortable with the  
19 requirement under the city's jurisdiction that  
20 they are, in fact, exempt from the 20-foot law.

21 HEARING OFFICER KRAMER: Are you saying  
22 that they've met all the other --

23 MR. FLORES: Yes.

24 HEARING OFFICER KRAMER: -- requirements  
25 of their development standards?

1                   MR. FLORES: Yes, they have. As being  
2                   within a general industrial area, they have set-  
3                   back, height requirements; and are all within the  
4                   guidelines that had been established under the  
5                   Anaheim zoning code and general plan.

6                   HEARING OFFICER KRAMER: Okay. Turning  
7                   to noise then, for a minute. Please identify  
8                   yourself.

9                   MR. KHOSHMAHRAB: Shahab Khoshmashrab.  
10                  I prepared the noise and vibration section.

11                  HEARING OFFICER KRAMER: So, as I  
12                  understand it, from reading your section, that if  
13                  the municipal code applied, the noise limit would  
14                  be no more than 60 dba at the property line,  
15                  correct?

16                  MR. KHOSHMAHRAB: Correct.

17                  HEARING OFFICER KRAMER: And in this  
18                  case did you identify a particular noise level  
19                  that was likely to result at the property line? I  
20                  know that normally you tend to measure things at  
21                  sensitive receptors and not always at the property  
22                  line.

23                  But what is the predicted noise level --

24                  MR. KHOSHMAHRAB: The predicted noise  
25                  level from the project --

1 HEARING OFFICER KRAMER: At the property  
2 line?

3 MR. KHOSHMAHRAB: -- is contoured at  
4 the project property line, contoured, in the AFC  
5 section, the noise section, 6-12.

6 HEARING OFFICER KRAMER: So what's the  
7 number in dba?

8 MR. KHOSHMAHRAB: Basically it varies.  
9 On the northeastern section of the property line  
10 it shows that it would likely be 64, 61 to 64.  
11 And that's the highest. At the other locations  
12 it's north property 54, west 47, and south 61.

13 HEARING OFFICER KRAMER: And how much  
14 are those above the ambient noise level at those  
15 points?

16 MR. KHOSHMAHRAB: They don't seem to be  
17 above the ambient noise level during the daytime  
18 hours. Because most of the daytime ambient levels  
19 in that area, the immediate area surrounding the  
20 project site, which are mainly commercial and  
21 industrial, are in the 60s basically.

22 And it seemed to, even if it does  
23 increase, it won't even be noticeable.

24 HEARING OFFICER KRAMER: Now, do you  
25 happen to know what the nighttime levels will be

1 at the property line?

2 MR. KHOSHMAHRAB: The property line,  
3 nighttimes. It will be the same thing from the  
4 power plant, because the power plant generates a  
5 steady state noise.

6 HEARING OFFICER KRAMER: No, but the  
7 ambient noise levels?

8 MR. KHOSHMAHRAB: The nighttime ambient  
9 at the property line, I don't. But I do know at  
10 the sensitive receptors, which are the residences.  
11 And the project complies totally with the COC  
12 requirements at those locations.

13 HEARING OFFICER KRAMER: It seems to be,  
14 from table 4, it's no more than plus an increase  
15 of 5 dba.

16 MR. KHOSHMAHRAB: That's right.

17 HEARING OFFICER KRAMER: Okay. Thank  
18 you. That was the only question regarding noise.  
19 Back to land use. On the parcel merger that you  
20 referred to, Mr. Flores, --

21 MR. FLORES: Yes. There was a lot-line  
22 adjustment.

23 HEARING OFFICER KRAMER: And your AFC  
24 referred to appendix B as -- I'm sorry, let me  
25 start over.

1                   The FSA refers to AFC appendix B as  
2           listing the assessor's parcel numbers. In fact,  
3           that was some other -- some air quality data. So  
4           I wasn't able to, in the time I had, find these  
5           parcel numbers.

6                   But let me ask you this: What is the  
7           effect of the lot-line adjustments? Is the  
8           proposed project on a single legal lot, or more  
9           than one legal lot?

10                  MR. FLORES: One legal lot. With the  
11           lot-line adjustment they're not merging the  
12           parcels. And so, in effect, they're just moving  
13           the lines around. And so the assessor's parcel  
14           number will remain.

15                  So what they did is just readjusted the  
16           lines. And so one parcel's much smaller than  
17           probably was originally proposed. And so the  
18           assessor's parcel will remain the same. But the  
19           actual project site should remain on one parcel.  
20           We generally require that as a condition.

21                  HEARING OFFICER KRAMER: Mr. Galati, you  
22           wanted to add something?

23                  MR. GALATI: I was just looking for that  
24           exhibit. I'm having difficulty finding it, as  
25           well. And I believe if it wasn't in the AFC, it

1       may have been submitted in the data response. We  
2       don't remember. But I do remember seeing the  
3       letter.

4               HEARING OFFICER KRAMER: So then, what  
5       -- how many parcels were there, Mr. Flores, do you  
6       remember? Maybe, Mr. Borrego, you may know?

7               MR. BORREGO: You know, I do not have  
8       that information in front of me at the moment.

9               MR. GALATI: Mr. Davis from the City of  
10      Anaheim, can answer, as well.

11              HEARING OFFICER KRAMER: Please state  
12      your full name for the court reporter?

13              MR. DAVIS: Larry Davis, Capital  
14      Projects Manager, City of Anaheim.

15              HEARING OFFICER KRAMER: And you were  
16      sworn earlier?

17              MR. DAVIS: Yes, I was. When we  
18      purchased the property there were four parcels;  
19      and it was reduced to one in the process.

20              HEARING OFFICER KRAMER: Also, it was a  
21      merger on a lot-line adjustment, then?

22              MR. DAVIS: No, it was a lot-line  
23      adjustment, I'm sorry.

24              HEARING OFFICER KRAMER: But it had the  
25      effect of merging lots?

1 MR. DAVIS: Yes.

2 HEARING OFFICER KRAMER: Okay.

3 Semantics, I guess. Good.

4 MR. GALATI: Mr. Kramer, we do have a  
5 copy of that letter. We'll go ahead and send it  
6 to you. I'm not sure right now. I believe it's  
7 in one of my three boxes, but I'm not sure how  
8 it's identified. So, I know Mr. Davis has a copy  
9 of that letter. We'd be more than happy to mark  
10 it next in order and submit it to you.

11 HEARING OFFICER KRAMER: Okay. Thank  
12 you. And if it's already part of an exhibit, just  
13 let us know.

14 MR. GALATI: Yes.

15 HEARING OFFICER KRAMER: And then, let's  
16 see, Mr. Flores, in land use table 2 in the FSA,  
17 to the west it describes the City of Anaheim  
18 having a general plan designation of industrial  
19 and general. Is that really one of their  
20 designations? And perhaps the gentleman from the  
21 city would know.

22 MR. BORREGO: Yes. The property is  
23 actually designated a general industrial.

24 HEARING OFFICER KRAMER: Okay. General  
25 industrial is different than industrial?

1                   MR. BORREGO: No. We only have one  
2 industrial designation in the city.

3                   HEARING OFFICER KRAMER: Okay, so, Mr.  
4 Flores, above where I was looking where it says  
5 industrial and general, it says industrial water  
6 and general. Should that probably be just general  
7 industrial, as well?

8                   MR. FLORES: Yes, that's correct.

9                   HEARING OFFICER KRAMER: Okay. I think  
10 that answered all of the Committee's questions.  
11 Thank you.

12                   Any other comments from the parties on  
13 land use or noise and vibration?

14                   MR. GALATI: Yes. I just wanted to ask  
15 Mr. Borrego a couple of questions regarding -- Mr.  
16 Borrego, this is Scott Galati. Can you hear me  
17 okay?

18                   MR. BORREGO: Yes, I can.

19                   MR. GALATI: Okay. And do you believe  
20 that the -- well, first of all, explain who owns  
21 the parcel.

22                   MR. BORREGO: The property is owned by  
23 the City of Anaheim.

24                   MR. GALATI: And who will operate the  
25 power plant?



1                   MR. BORREGO: I believe it will be  
2                   operated by the Power Authority.

3                   MR. GALATI: Okay. And is the City of  
4                   Anaheim going to operate that power plant with an  
5                   agreement with the Power Authority?

6                   MR. BORREGO: Yes, they will; it's a  
7                   joint agreement.

8                   MR. GALATI: Okay. With those facts do  
9                   you believe that the municipal code applies to the  
10                  project, as has been described in appendix G  
11                  letter?

12                  MR. BORREGO: Yes, I do.

13                  MR. GALATI: No further questions.

14                  HEARING OFFICER KRAMER: Okay, thank  
15                  you. Let's move on to the next topic. It's  
16                  project description and executive summary. There  
17                  the Committee had no questions, but Mr. Galati had  
18                  proposed modifications.

19                  MR. GALATI: Mr. Kramer, can we release  
20                  Mr. Borrego?

21                  HEARING OFFICER KRAMER: Let's see.  
22                  There will be some questions about the scenic  
23                  routes that were designated. I don't know if he  
24                  has any particular knowledge about that that might  
25                  be helpful, in the visual area.

1                   MR. GALATI: I don't know. I don't have  
2 a visual expert, so --

3                   HEARING OFFICER KRAMER: Okay, well, our  
4 questions are mostly for staff. So, I think, Mr.  
5 Borrego, you're free to go.

6                   MR. BORREGO: Okay. And I can certainly  
7 be reached if I need to provide further testimony.

8                   MR. GALATI: Thank you, Jonathan.

9                   MR. BORREGO: You're welcome.

10                  HEARING OFFICER KRAMER: So, Mr. Galati,  
11 project description and executive summary.

12                  MR. GALATI: Yes. These changes in  
13 project description/executive summary were  
14 comments that we made on the preliminary staff  
15 assessment and appears were just missed. So we  
16 wanted to reiterate them again here. Again, with  
17 the sole purpose of trying to avoid an amendment  
18 that there would be a project description in one  
19 of the record documents that was slightly  
20 different than what the project, how it's intended  
21 to be constructed.

22                  So, those are outlined both in our  
23 prehearing conference statement, for ease; or  
24 they're in the project description testimony.

25                  HEARING OFFICER KRAMER: Okay. Staff,

1       just to get this on the record, do you have any  
2       objections or modifications to the proposals that  
3       Mr. Galati made on pages 3 and 4 regarding  
4       executive summary and project description of his  
5       prehearing conference statement?

6               MR. SOLORIO:  No objections, although  
7       there may be a need for some clarification in  
8       terms of the last comment you have described in  
9       your prehearing conference statement, page 3-4,  
10      second paragraph, where you discuss the wastewater  
11      streams.

12             And specifically that language should  
13      refer to the oil/water separator -- should refer  
14      to wastestreams that do not contain oil.  There's  
15      some language in the waste section, and which is  
16      also tied to soil and water, that specifies  
17      wastestreams containing solvents.  So, want to  
18      discern between the two.

19             MR. GALATI:  I'm going to ask Ms. Wilson  
20      to answer that question, and specifically the  
21      question about whether solvents would go to the  
22      oil/water separator.

23             MS. WILSON:  I think you're referring to  
24      solvent use for wash water, if we do use it?  We  
25      don't intend to use solvent.  But I think there's

1 a provision that allows us either to use a  
2 detergent or a solvent. If we do use a solvent,  
3 then that'll be handled as a hazardous waste, and  
4 it certainly won't go to the oil/water separator.

5 MR. SOLORIO: I'm fine with the proposed  
6 change. Again, I just think it's important to be  
7 able to reconcile that with the waste section so  
8 language is consistent.

9 MR. GALATI: Yeah, I think that's a good  
10 idea, as well.

11 HEARING OFFICER KRAMER: Okay, thank  
12 you. Anything further on those two topic areas?

13 Well, I promised Ms. Cynthia Peralta  
14 that she would be able to get out of here by 11:30  
15 for her airplane. So, if you could come to the  
16 microphone up there, state your name again, and  
17 you wish to make a public comment. So we will  
18 accept that now.

19 MS. PERALTA: Thank you for allowing me  
20 to speak today. My name is Cynthia Verdugo  
21 Peralta. I am a resident of the City of Yorba  
22 Linda, and that is adjacent to the City of Anaheim  
23 where the power plant will be built.

24 However, first and foremost, I do want  
25 to say that I am not opposing the plant. I have

1       been in the utility industry for over 30 years.  
2       So I recognize the fact that the State of  
3       California needs to have additional, whether it's  
4       peaker plants, overall generation.

5               However, as the former Governors  
6       appointed to the South Coast Air Quality  
7       Management District Governing Board, I am asking  
8       that you, the CEC, consider newer and better  
9       emission control technologies in addition to  
10      building all future power plants with combined  
11      cycle systems and quicker startup times. But I'm  
12      not here to advocate for any particular company's  
13      technology.

14             As the board member of the American  
15      Asthma Association, Asthma and Allergy Foundation  
16      of America and past president, and current  
17      steering team member of the California Asthma  
18      Partners, I'm here to advocate for clean air and  
19      the cleanest generating stations possible, to  
20      reduce cases of asthma and all respiratory  
21      ailments.

22             As a caregiver of three asthmatics in my  
23      immediate family I know that increased emissions  
24      will affect them and all my neighbors in Yorba  
25      Linda, Placentia, Brea, Fullerton and also

1       Anaheim.

2               There's a school that's -- well, it's  
3       outside of the actual distance which would be  
4       considered a sensitive receptor, and it does meet  
5       the rule of AQMD, the school is still pretty  
6       close. Residents are still pretty close.

7               And there's no way that you can say,  
8       okay, you're going to get to this amount of feet  
9       from the generating station and the pollution is  
10      going to stop there. We all know it's going to  
11      continue.

12              I'm asking that the CEC and all the  
13      AQMDs throughout the state investigate further  
14      into the technology other than selective catalytic  
15      reduction as single cycle plants. SCR has the  
16      danger of ammonia slippage which concerns me  
17      greatly for the residents, not to mention the  
18      delivery mishaps that are possible.

19              The first letter of BACT, best available  
20      control technology, is exactly that, best. You  
21      need to go beyond requiring only the lowest  
22      threshold and actually require the best technology  
23      available, whatever that may be.

24              I also strongly believe in the public  
25      process. It concerns me and disappoints me

1       greatly that the City of Yorba Linda was denied a  
2       hearing by the South Coast AQMD. I know that  
3       there were many attempts to have that hearing.

4               And, again, I want to say that I am not  
5       opposing the building of any power plants, as I  
6       stated before. However, I am asking that they be  
7       the cleanest possible.

8               And the only other comment I had wanted  
9       to make is that while this is a legal hearing, I  
10      don't want anybody to be paraphrased. And it  
11      concerns me that when we were talking --

12              (Parties speaking simultaneously.)

13              MS. PERALTA: -- about ERCs and the  
14      methodology, while Mr. Galati may be absolutely  
15      correct, I don't think anybody should be speaking  
16      on behalf of the South Coast. I think they should  
17      be here; I wish they would have been here to be  
18      able to speak for themselves and offer that  
19      information.

20              Thank you very much.

21              HEARING OFFICER KRAMER: Thank you.

22              MR. GALATI: Mr. Kramer, if I could  
23      direct the Committee's attention on one issue  
24      raised by the commenter. And that had to do with  
25      the public health and applying the South Coast

1 rules that the school was not close enough to be  
2 treated under South Coast rules.

3 I point you to the section 6.16 of the  
4 AFC in which we treated that school as if it were  
5 within 1000 feet, and did a public health analysis  
6 at the location of that school. And we meet, and  
7 far below, the threshold set by South Coast to  
8 have a project within 1000 feet of the school. So  
9 just address you to exhibit 1 and specifically  
10 section 6.16 where that analysis is located.

11 HEARING OFFICER KRAMER: Thank you.  
12 Have any new members of the public come into the  
13 room since we started? Okay.

14 Now on to public health. Dr. Greenberg,  
15 are you there?

16 DR. GREENBERG: Present.

17 HEARING OFFICER KRAMER: Okay. You've  
18 been sworn?

19 DR. GREENBERG: Yes.

20 HEARING OFFICER KRAMER: My first  
21 question is a general question. And that is we  
22 know that the project, at least since the early  
23 stages of the consideration of the application,  
24 has proposed limiting its operating hours.

25 And what I'm wondering is the health



1 risk assessment that you prepared or reviewed  
2 regarding the project, were they based on an  
3 assumption that the project was running at its  
4 physically possible maximum? In other words,  
5 24/7/365 days a year? Or at the number of hours  
6 that the applicant is proposing to operate and be  
7 limited to operating it?

8 DR. GREENBERG: Mr. Hearing Officer,  
9 it's based upon the emissions estimates provided  
10 by the applicant in their revised appendix E.  
11 Those emission values are based on what the  
12 applicant, I believe, is suggesting as a maximum.  
13 The applicant is there and they can correct me if  
14 I'm wrong.

15 MR. GALATI: That is correct, Dr.  
16 Greenberg.

17 DR. GREENBERG: Thank you.

18 HEARING OFFICER KRAMER: Okay. And the  
19 reason I asked this is I wanted to be clear in the  
20 decision for future generation, so that if at some  
21 point the applicant does find more offsets and a  
22 reason to operate significantly more hours, then  
23 we know that it may be necessary to revise these  
24 studies in order to analyze the public health  
25 aspects of it.

1 MR. GALATI: I believe the way --

2 DR. GREENBERG: Understood.

3 MR. GALATI: I believe that the way the  
4 conditions are written now, Members of the  
5 Committee, is that if we changed our operating  
6 profile, if we were to get more offsets, we would  
7 have to file a new application to either amend  
8 with the South Coast and at the Energy Commission,  
9 or file a new application.

10 And in that case the Commission would be  
11 required to comply with CEQA and look at the  
12 potential effects of that change.

13 So I think that the Commission is  
14 protected under the law. And certainly the public  
15 is. That we would not be able to emit more  
16 without going through an amendment process.

17 HEARING OFFICER KRAMER: Thank you. I  
18 have two specific questions, Dr. Greenberg, about  
19 your section.

20 In the LORS table on the second page,  
21 you refer to T-BACT. And I may have known what  
22 that is at one point, but I've forgotten. So I  
23 just wanted to clarify that because I don't see it  
24 defined in here.

25 DR. GREENBERG: I apologize for not

1 spelling that out. It stands for toxics best  
2 available control technology.

3 HEARING OFFICER KRAMER: Thank you. And  
4 finally, on page 4.7-14, after the fourth bullet  
5 from the top of the page there's a paragraph that  
6 talks about the train heights used in the HARP  
7 model. And it says that they were set to flat  
8 because the applicant's modeling CD did not  
9 provide any demographic data. I think that's  
10 probably a typo. Did you mean topographic?

11 DR. GREENBERG: Yes.

12 HEARING OFFICER KRAMER: And --

13 DR. GREENBERG: It's an input file that  
14 contains elevations and contours. And so I've  
15 been to the site and so I assumed flat.

16 HEARING OFFICER KRAMER: And is it  
17 appropriate to assume flat in that area? Because  
18 there are hills somewhat nearby.

19 DR. GREENBERG: Yes, they are distant.  
20 And as you know, the air dispersion model shows  
21 that airborne concentrations fall off  
22 significantly by distance. And I deemed that  
23 those elevated receptors were really rather too  
24 distant to put in a different input parameter to  
25 the HARP model.

1                   HEARING OFFICER KRAMER: Okay, thank  
2                   you. Anything else from the parties on the topic  
3                   of public health?

4                   MR. GALATI: None from the applicant.

5                   MS. DYER: None from staff.

6                   HEARING OFFICER KRAMER: Let's move on  
7                   then to soil and water resources.

8                   DR. GREENBERG: Hearing Officer Kramer,  
9                   this is Alvin Greenberg. May I be excused?

10                  HEARING OFFICER KRAMER: Yes, you may;  
11                  thank you for calling in.

12                  DR. GREENBERG: You're welcome. Thank  
13                  you.

14                  HEARING OFFICER KRAMER: And I believe  
15                  soil and water was on here because the applicant  
16                  has proposed --

17                  MR. GALATI: Yes, Mr. Kramer. We just  
18                  proposed a change here to clarify the  
19                  verification. The conditions requires us to get a  
20                  series of contracts, or water supply contracts, to  
21                  show that we have the ability to get the water and  
22                  use the water in the quantities that we need.

23                  And the language actually used the word  
24                  "will" and we may not be able to take delivery of  
25                  that worst case scenario, since we're anticipating

1       only 100 acrefeet per year as what we're going to  
2       use.

3               So we just ask that the verification,  
4       which requires us to have the ability to take 370  
5       acrefeet per year, we just ask that we use the  
6       word "can" instead of "will". So we'll show that  
7       if we were to go up to 370 acrefeet the contract  
8       would allow us to, but we're certainly not  
9       obligated to take that.

10              HEARING OFFICER KRAMER: And there was a  
11       second part to your request that you not be  
12       required to use tertiary recycled water for  
13       landscape irrigation purposes?

14              MR. GALATI: That's correct. We had  
15       never proposed that, and we didn't believe that  
16       there was any LORS or potential impacts that would  
17       require that.

18              MR. MARSHALL: Staff. Paul Marshall  
19       here to address the Energy Commission's response  
20       on soil and water.

21              HEARING OFFICER KRAMER: Please go  
22       ahead.

23              MR. MARSHALL: I think we would agree  
24       with the applicant's proposal on the first part of  
25       the change where they can change "will" to "can".

1 We analyzed up to 650 acrefeet per year recycled  
2 water use and felt that the proposed supplier was  
3 capable of delivering. There would be no impact.

4 So, we can see no problem with really  
5 providing that flexibility.

6 As to the second part, staff does  
7 believe that using recycled water for landscape  
8 irrigation purposes makes sense on this project.  
9 They're going to be hooking up with at least a 14-  
10 inch diameter recycled water pipeline at the site  
11 to take recycled water for use on their cooling  
12 activities.

13 And they'll be capable of taking four  
14 times more than they're really going to need  
15 during an average use scenario.

16 And so there's no reason to -- we see  
17 that there's no reason why they couldn't simply  
18 just stub off of that line and provide water for  
19 landscape irrigation purposes.

20 And I guess as far as the LORS issue is  
21 concerned, you might look at, you know, the  
22 state's constitution in which we say, you know, we  
23 want to use fresh water for its highest and  
24 beneficial uses.

25 And if we have a readily available

1 supply of recycled water for landscape irrigation,  
2 we think it's a very feasible request.

3 HEARING OFFICER KRAMER: Applicant?

4 MR. GALATI: Submit this for the  
5 Committee's decision.

6 HEARING OFFICER KRAMER: Okay, thank  
7 you. Mr. Marshall, were you sworn, were you here  
8 to be sworn earlier?

9 MR. MARSHALL: Yeah, I was on the phone  
10 earlier, and --

11 HEARING OFFICER KRAMER: Okay, that 's  
12 all right.

13 Anything else from any party on soil and  
14 water?

15 MS. DYER: No.

16 HEARING OFFICER KRAMER: Okay. Let's  
17 move on to traffic and transportation.

18 MR. GALATI: Members of the Committee,  
19 our comment here is that condition of  
20 certification Trans-1 includes a requirement, item  
21 number J, for us to use shuttle service for our  
22 farthest-most laydown area.

23 This project may be different than most  
24 in that our farthest laydown area is about a  
25 quarter-mile away. We're just directing our

1 people to walk, and abide by the traffic laws.

2 So we'd ask that that condition be  
3 deleted.

4 HEARING OFFICER KRAMER: Mr. Flores.

5 MR. FLORES: Yeah, at that time, staff  
6 recognized on a field visit as to the traffic  
7 situation on that four-lane roadway. I believe  
8 it's Kramer Boulevard.

9 And it was from a concern as to, in  
10 fact, the workers obeying the traffic laws. And,  
11 frankly, I'm not exactly sure how many workers  
12 will be utilizing that site. I don't know if you  
13 have an answer at this point. I believe during  
14 peak there will be close to -- a little over 200  
15 workers.

16 And so I wouldn't be so concerned if  
17 there was 20 or 30 that are going to be utilizing  
18 that offsite parking area. But if you've got over  
19 100 people crossing a major roadway, I'm just  
20 concerned from the respect that they may not  
21 follow the traffic laws within that area.

22 So, if you could answer that for me?

23 MR. GALATI: My understanding is we've  
24 leased up to 150 spaces for that particular  
25 location. So I guess there could be as much as



1 150.

2 We would wonder if staff -- we are  
3 preparing a construction mitigation plan,  
4 construction traffic control plan -- rather than  
5 default to the shuttle service.

6 We could certainly monitor that plan.  
7 And if that plan is not working we could implement  
8 a shuttle service, if that would be acceptable to  
9 staff.

10 MR. FLORES: Staff looked into that, as  
11 to the traffic control plan. And I'm willing to  
12 let it go into that respect. In times, various  
13 times in quite a few different projects we've  
14 allowed within the traffic control plan, either  
15 there's someone there to monitor. I believe even  
16 in one or two projects we've had the CHP monitor  
17 and make sure that the workers were obeying the  
18 laws.

19 And so I'm willing to look at the  
20 traffic control plan and use it from that  
21 standpoint.

22 MR. GALATI: Okay, so, Mr. Kramer, I  
23 propose to provide some language for item J that  
24 would be along the lines of that we would address  
25 the workers walking from the remote laydown area.

1                   And that we would have in our  
2                   construction control plan a mechanism by which we  
3                   are to monitor and insure enforcement of the  
4                   traffic laws.

5                   And that if the workers were not obeying  
6                   the traffic laws, that there be a mechanism  
7                   whereby we institute the shuttle service. Would  
8                   that be acceptable to staff in general terms?

9                   MR. FLORES: That is acceptable by  
10                  staff.

11                  HEARING OFFICER KRAMER: Okay, so we'll  
12                  look for that in the next week.

13                  Anything else on traffic?

14                  Okay, the next topic is visual  
15                  resources.

16                  MR. GALATI: Members of the Committee,  
17                  we asked for a change to Visual-3. Visual-3  
18                  requires that laydown areas and construction  
19                  parking and linear construction activities, that  
20                  when the applicant is completed using those areas,  
21                  that the surface be restored.

22                  And on this particular project much of  
23                  the laydown area is going to be onsite. And so we  
24                  just ask that this condition be limited and  
25                  applicable only to those offsite areas where we

1 have a linear or offsites where we're using a  
2 laydown or construction parking.

3 So, we'd propose that change to Visual-  
4 3.

5 HEARING OFFICER KRAMER: Mr. Adams, do  
6 you want to respond on behalf of staff or --

7 MR. ADAMS: Yeah, staff's not opposed --

8 HEARING OFFICER KRAMER: You need to  
9 turn on your mic.

10 MR. ADAMS: Staff is not opposed to the  
11 change.

12 HEARING OFFICER KRAMER: Okay, I --

13 MS. DYER: Was Mr. Adams sworn in?

14 MR. ADAMS: I don't --

15 HEARING OFFICER KRAMER: Yes.

16 MR. ADAMS: I was on the phone and then  
17 I was asked to come down. So I have not been  
18 sworn.

19 HEARING OFFICER KRAMER: Okay. Please  
20 stand.

21 Whereupon,

22 JAMES ADAMS

23 was called as a witness herein, and after first  
24 having been duly sworn, was examined and testified  
25 as follows:

1 THE REPORTER: Please state and spell  
2 your name for the record.

3 MR. ADAMS: James Adams, J-a-m-e-s  
4 A-d-a-m-s.

5 THE REPORTER: Thank you.

6 HEARING OFFICER KRAMER: Now, my first  
7 question perhaps is best addressed to the  
8 applicant. As to the 20-foot soundwall, is that  
9 in a place where it could be subject to tagging,  
10 graffiti?

11 MR. ADAMS: I thought the question was  
12 for the applicant.

13 MS. WILSON: Yes, it's possible.

14 HEARING OFFICER KRAMER: So do you have  
15 any plans to put a finish on there that will make  
16 it easier to remove that?

17 MR. GALATI: Mr. Davis, can you come on  
18 up and answer this question?

19 MR. DAVIS: Yes, we plan to install an  
20 ivy-type material on the exterior of the wall  
21 along Miraloma, such that tagging can't be done.

22 HEARING OFFICER KRAMER: Until it grows,  
23 will you use graffiti-resistant paint, do you  
24 think?

25 MR. DAVIS: No, we're not. We've done

1       those studies. We've found that that paint  
2       doesn't work as well as just sand-blasting it and  
3       repairing it after it's done.

4               HEARING OFFICER KRAMER: Oh, okay.  
5       Thank you.

6               My other question, I'll start with the  
7       staff and Mr. Adams, and the applicant may want to  
8       chime in.

9               The staff analysis discussed state route  
10      91 as being a scenic route, or at least a portion  
11      in the vicinity of the project site. And I'm  
12      looking at page 4.12-5. Just to help you follow  
13      along.

14              MR. ADAMS: I have it.

15              HEARING OFFICER KRAMER: It also implies  
16      that there may be other scenic routes in the area.  
17      It is less clear about whether they would be  
18      affected by the project.

19              So I wonder if you could just discuss  
20      them briefly and summarize your conclusions about  
21      the potential impact on those routes.

22              MR. ADAMS: Certainly. Referring to  
23      4.12-5, the nearest portion of the scenic highway  
24      of state route 91 and 55 are about 2.25 miles to  
25      the east. And, in fact, if you can look at visual

1 resource figure 2, where it shows where the KOPs  
2 are, you'll see where KOP-3 is. That's about 2.5  
3 miles east of the project.

4 So, in my view, it's far enough away  
5 that viewers like those on KOP-3, which is on the  
6 highway, if you want to take a look at the  
7 simulation, which is KOP resource figure 5B, shows  
8 that the project's stacks would be visible, but  
9 barely, given all of the other industrial/  
10 commercial facilities and other things that are  
11 there.

12 So, I think it would be similar with  
13 viewers who were on the scenic portion of state  
14 route 91, they would be far enough away to where  
15 they really would not be seeing the project  
16 clearly at all.

17 In fact, their focus -- these are  
18 motorists, of course, -- and they're focused on  
19 the highway. So I didn't feel there would be a  
20 significant visual impact from those portions --  
21 at least that portion of the scenic route.

22 The additional one on state route 142 is  
23 about 4.5 miles northeast. I don't believe the  
24 project would be visible from there due to the  
25 hills.

1                   And finally, there's a scenic part of  
2                   state route 91 from Santiago Boulevard about 2.5  
3                   miles south of the project. And then it continues  
4                   on east to 4.5 miles.

5                   Again, I think the distance is  
6                   sufficient to where visitors or viewers actually  
7                   would be hard-pressed to really see the project  
8                   and distinguish it from what is already there.

9                   So I didn't, from a visual point of  
10                  view, I didn't think the scenic highway was going  
11                  to be adversely impacted by the construction or  
12                  operation of the project.

13                 HEARING OFFICER KRAMER: So in other  
14                 words, the other KOPs, their views were more  
15                 attenuated than 3?

16                 MR. ADAMS: Yes. Well, 3, if you take a  
17                 look at the simulation there's so much stuff in  
18                 view, other structures, trees, everything, that  
19                 it's really -- I don't want to say blends in with  
20                 the view, but it certainly doesn't noticeably  
21                 disrupt the view.

22                 The other KOPs are closer but even there  
23                 there's existing screening that really hides most  
24                 of the project.

25                 But with respect to the scenic highways

1 I didn't believe that the project would be -- it  
2 would be not unnoticeable, but certainly not any  
3 sort of significant scenic feature that would  
4 affect the scenic quality of the view on those  
5 sections of highways.

6 HEARING OFFICER KRAMER: Okay. What  
7 were those other scenic highways, again?

8 MR. ADAMS: Well, we have one that's  
9 state route 142, Carbon Canyon, which works its  
10 way through the foothills. That's about 4.5 miles  
11 northeast of the project site.

12 And then the City of Anaheim considers  
13 state route 91 a scenic highway from Santiago  
14 Boulevard, which is about 2.5 miles southeast of  
15 the project site heading further east to about 4.5  
16 miles.

17 So those are the only scenic highways  
18 that are within the viewshed at all. And, again,  
19 I don't believe they're close enough to really  
20 affect the scenic quality of viewers on those  
21 highways.

22 HEARING OFFICER KRAMER: To your  
23 knowledge is there some particular state law,  
24 statute or regulation that governs the designation  
25 of scenic highways?



1                   MR. ADAMS: Well, there are different  
2                   criteria for both the state and the county.  
3                   Sometimes highways can be eligible to be a scenic  
4                   highway. And other times they are selected by the  
5                   state or the county or the city and they're  
6                   designated scenic. It really depends on the  
7                   entity you're talking about.

8                   HEARING OFFICER KRAMER: Okay. I see  
9                   that in the LORS table you didn't describe the  
10                  particular statutes that govern that process. For  
11                  future reference I think it would be helpful to  
12                  have that in there.

13                 MR. ADAMS: Certainly.

14                 HEARING OFFICER KRAMER: And that was  
15                  the -- those were the only questions we had, so,  
16                  thank you. Anything from the parties on this  
17                  topic?

18                 MR. GALATI: Not from the applicant.

19                 MS. DYER: Nothing more from staff.

20                 HEARING OFFICER KRAMER: Okay. Next is  
21                  waste management. Again, I think that was Mr.  
22                  Galati's. No, I'm wrong.

23                 MR. GALATI: I don't believe we had any  
24                  changes to waste.

25                 HEARING OFFICER KRAMER: Then that may

1 be me.

2 (Pause.)

3 HEARING OFFICER KRAMER: And I think  
4 perhaps it was on the list in here. So, do the  
5 parties wish to do anything other than submit on  
6 the testimony that was identified in your exhibit  
7 lists?

8 MR. GALATI: Yes, submitted on behalf of  
9 the applicant.

10 MS. DYER: And nothing further from  
11 staff.

12 HEARING OFFICER KRAMER: Okay, from  
13 earlier we moved power plant efficiency and  
14 socioeconomic resources into the discussion  
15 category. The Committee had no questions on  
16 those.

17 And unless the parties wish to say  
18 anything in response to the public comment that  
19 we've heard -- and we'll hold that until we  
20 receive the other public comment that we have. Do  
21 the parties wish to submit those on the testimony  
22 that was filed and identified in the exhibit  
23 lists?

24 MR. GALATI: Yes, please.

25 MS. DYER: Yes.

1 HEARING OFFICER KRAMER: Okay, thank  
2 you.

3 So that bring us to Mr. Jerald Cole from  
4 the City of Yorba Linda.

5 MR. COLE: Okay. My name's Jerald Cole.  
6 I am the Chief Technology Officer and President of  
7 the consulting firm Hydrogen Ventures, LLC. I was  
8 asked to be here by the City Manager of Yorba  
9 Linda to address the project in general.

10 I'll cut right to the chase on the most  
11 important item, which was that at the October 20th  
12 meeting the City Council of Yorba Linda the  
13 council had a discussion on this. It was not on  
14 the agenda. And had decided that the way the  
15 project has transpired, since they were first  
16 informed about it roughly 13 months ago, that  
17 they're very unhappy. And they voted to ask me  
18 essentially to come here and tell you they object  
19 to the project in total.

20 So, that being said, I have also been  
21 asked by Dave Adams, the City Manager, to take a  
22 look at what has been done in terms of analyzing  
23 comments that I helped them prepare regarding  
24 combined cycle versus simple cycle operation.

25 Unfortunately, the arrival of the FSA on

1       October 8th did not provide a lot of time for that  
2       analysis and I wasn't actually tasked to do this  
3       until just last week. So I've been working on  
4       this right through this morning.

5               What I can say is the staff assessment  
6       of the combined cycle alternative found in section  
7       6 of the FSA appears to be fine. However, it is  
8       based upon numbers that were prepared by William  
9       Walters, the consultant who was on the phone  
10      earlier today, and the numbers that he used do  
11      raise a lot of big question marks.

12             And I can go through those very quickly,  
13      or I could submit them later as written comments.  
14      Either way.

15             HEARING OFFICER KRAMER: I think it  
16      would be better if you just give them to us now.

17             MR. COLE: Okay. The gist of this is  
18      really that Mr. Walters looked at the Henrietta  
19      proposed modification or conversion from simple  
20      cycle to combined cycle and used emission factors  
21      from that plant to estimate what would be the  
22      impact of going from simple cycle to combined  
23      cycle at the Anaheim Canyon Project.

24             Referring first on page 6-16, Alt-1,  
25      table 1, the combined cycle emissions were taken

1 from the Henrietta application and the 3.4 pounds  
2 per hour per turbine of NOx, 3.1 pounds per hour  
3 per turbine of CO, 1.2 pounds per hour of VOCs and  
4 .34 pounds per hour of SO2 all correspond with the  
5 Henrietta application.

6 However, the PM10, PM2.5 in the  
7 Henrietta application was 2.2 pounds per hour, not  
8 3 pounds per hour. And taken on the face of it,  
9 not having any explanation in here as to why that  
10 number was escalated I would conclude that if  
11 staff had gone back and reassessed the emissions  
12 using 2.2 pounds per hour, they would not have  
13 concluded that, in fact, PM emissions would have  
14 gone up while all other emissions would go down.

15 Referring to Alt-1, table 2, startup and  
16 shutdown emissions, similarly NOx, VOC and SO2  
17 appear to have been taken directly from the GWF  
18 Henrietta application.

19 However, the CO emissions during startup  
20 were reported as 3 pounds per event here in this  
21 table, but 1.8 pounds per event in the Henrietta  
22 application. Likewise, the shutdown was 0.6  
23 pounds per event, rather than 1.

24 When we go to the PM10, PM2.5 we see the  
25 startup in Henrietta was reported at 2.2, but was

1       escalated by Mr. Walters to 3. And the shutdown  
2       was 0.8, but was escalated by Mr. Walters to 1.09.

3               There were some other assumptions that  
4       were made here that do not seem to apply, that  
5       seemed perfectly valid for Henrietta, but not  
6       necessarily for the Canyon project. One of those  
7       being that if OTSG were adopted and this were a  
8       combined cycle turbine, that combined cycle  
9       operation would be split roughly 50/50 with simple  
10      cycle operation.

11             However, that is not consistent with the  
12      planned operation of the Canyon project; 50/50  
13      would be perhaps a worst case, if, for example,  
14      the turbine were to be operated for a total of  
15      four hours in one day, we might see two hours of  
16      simple cycle and two hours of combined cycle. But  
17      for the most part, that doesn't seem to wash out.

18             Getting on to page 6-17, I believe this  
19      is the last of my comments, and simply, as I say,  
20      because I haven't had enough time to fully analyze  
21      this. When we look at the comparison of the  
22      Canyon proposed simple cycle with the OTSG with  
23      the Canyon generation rate in Alt-1, table 4, we  
24      find that the SO2 emission rates for the two cases  
25      are identical at 0.81 tons per year.

1                   This would imply that three turbines,  
2                   operating under combined cycle mode, at maximum  
3                   operation, were consuming the same amount of fuel  
4                   as turbines under simple cycle mode.

5                   Even accounting for the fact that there  
6                   would be a auxiliary boiler, presumably to heat up  
7                   the steam path and to bring the steam turbine  
8                   casing to equilibrium prior to going to combined  
9                   cycle, the emissions of SO2 from the OTSG  
10                  configuration should still be substantially less.  
11                  Much closer to about .62 or .63 by my back-of-the-  
12                  envelope estimation. And similarly, NOx, CO, VOC  
13                  and PM10, PM2.5 should drop, as well.

14                  So those are the comments that I have.

15                  HEARING OFFICER KRAMER: Thank you.

16                  MR. GALATI: If I could respond very  
17                  quickly.

18                  HEARING OFFICER KRAMER: Certainly.

19                  MR. GALATI: We have been actually  
20                  dealing with this issue for quite some time, about  
21                  whether or not once-through steam generation would  
22                  work for our application.

23                  Rather than give you the answer which I  
24                  think you can guess, since we proposed a simple  
25                  cycle project and we did not change the project to

1       once-through steam generation, I would refer you  
2       to the following exhibits to show the depth of  
3       discussion and analysis that has gone into this on  
4       the applicant's side.

5               And they would be exhibit 26, 33, 34,  
6       36, 37, 39, 41, 45, 69, 71, 72 -- oh, excuse me, I  
7       apologize for those last two, excuse me, --  
8       exhibit 73.

9               HEARING OFFICER KRAMER:   Okay, hold on.

10              MR. GALATI:   What you will see --

11              HEARING OFFICER KRAMER:   45, 69 --

12              MR. GALATI:   Let's take out 69, I  
13       actually have those circled for another reason.  
14       So, 45 and then ultimately exhibit 73.

15              And what you will see is that the way  
16       that this project is going to be dispatched, and  
17       the way that the -- why the project is being built  
18       is not in any way, shape or form, the way or the  
19       reason that Henrietta or other projects are  
20       intended to be operated.

21              And so we'd ask you to look at those  
22       exhibits very carefully.   Because those exhibits  
23       show very clearly, starting from the initial  
24       request of Mr. Cole and the city to look at  
25       additional -- different technology to control NOx.



1                   So, we believe and support and agree  
2                   with the staff's ultimate conclusion. And we  
3                   believe that is supported by substantial evidence  
4                   in the record, and specifically those exhibits.

5                   HEARING OFFICER KRAMER: Thank you.

6                   PRESIDING MEMBER BYRON: If I could, Mr.  
7                   Kramer. Mr. Cole, thank you for being here and  
8                   your comments. I assume that, given the limited  
9                   amount of time for your analysis, it's primarily a  
10                  comparison of emissions. You haven't looked at  
11                  operating characteristics or performance  
12                  characteristics of the different plants?

13                 MR. COLE: No. That information was not  
14                 available in the FSA. And so I would have to go  
15                 back to Mr. Walters and request those detailed  
16                 calculations from him.

17                 PRESIDING MEMBER BYRON: Well, thank  
18                 you, again. But let's go back, if I may, to the  
19                 more fundamental issue in my mind, and that is, as  
20                 I understand it, you're here representing the City  
21                 of Yorba Linda at their request, as to why they're  
22                 -- I'm interested in understanding better why  
23                 they're disgruntled and not happy with this  
24                 project.

25                 MR. COLE: I cannot testify as to the

1 intent of the City Council of Yorba Linda. I can  
2 tell you that this appears to be something that's  
3 being driven by City Councilwoman Jan Horton. And  
4 that I have never had a private conversation with  
5 her about this. And so I really don't know.

6 I've been working through the city  
7 manager's office. I have briefed the city  
8 council. I have been questioned by the city  
9 council. But actually I have not been before  
10 them, I think, since last February. In the  
11 meantime I've simply been responding to requests  
12 from the city manager's office.

13 PRESIDING MEMBER BYRON: Okay, but you  
14 characterized earlier at the beginning of your  
15 comments that they object, the city objects to the  
16 project. So, there is public record on this  
17 matter, correct?

18 MR. COLE: Yes. The city council  
19 meetings are recorded and videotaped, and that  
20 information is available on the web. Although I  
21 will tell you right now that they're having some  
22 technical difficulties with that particular  
23 meeting, so that you can only get streaming audio.  
24 And it starts at the beginning and goes all the  
25 way to the end, five hours and 45 minutes later.

1       So if you want to hear it you have to be patient.

2               PRESIDING MEMBER BYRON: Thank you for  
3       that warning.

4               HEARING OFFICER KRAMER: Okay, thank  
5       you, Mr. Cole.

6               Well, that brings us to the end of the  
7       topics, I believe. So, let's talk about the  
8       exhibit list.

9               PRESIDING MEMBER BYRON: Before we do  
10       that, Mr. Kramer, I was going to ask a couple of  
11       questions if I may.

12              HEARING OFFICER KRAMER: Sure.

13              PRESIDING MEMBER BYRON: And I apologize  
14       because you've done an excellent job with regard  
15       to organizing our agenda. But I'd like to go back  
16       and ask a couple of questions about some issues.  
17       I think they can be very brief.

18              I note early on in the project  
19       description that there was an objective stated  
20       about backing up wind. And if you'll allow me a  
21       second here, I believe it's item 6 on the stated  
22       objectives for the project. Does that sound  
23       familiar?

24              I'll read it to you: Project purpose  
25       and objectives. The AFC describes the proposed

1 CPP project objectives as follows. Skipping to  
2 number 6: Provide a backup for as-available wind  
3 energy.

4 MR. GALATI: Commissioner Byron, I don't  
5 actually have a witness that can answer that  
6 question. That would be Steve Sciortino, who  
7 actually manages and purchases. And I know that  
8 when we prepared the AFC we certainly discussed  
9 that as an objective with the city's ongoing  
10 procurement.

11 But I don't have an update for you on  
12 what that might be. But I certainly can provide  
13 it if I can understand what specifically you need  
14 addressed.

15 PRESIDING MEMBER BYRON: All right. Let  
16 me go ahead and recall, as well, the original  
17 scheduling order for the project. The Committee  
18 was interested in two issues that were touched on  
19 in the informational hearing with regard to  
20 Anaheim's future energy loads and resources.

21 And this was a primary interest of my  
22 Associate Member of the Committee. The first  
23 issue is how Anaheim has factored into its load  
24 forecast the Energy Commission's policy adopted in  
25 its Integrated Energy Policy Report, that

1       municipal utilities should achieve all 100 percent  
2       of cost effective energy efficiency potential by a  
3       combination of utility programs, state and local  
4       standards, and other programs.

5               And then the second issue is what  
6       renewable resources addition Anaheim intends to  
7       pursue over the next ten years to meet its  
8       renewable portfolio standard goal of 20 percent in  
9       2015.

10              So, there may be information that  
11       already exists in the record and it would be my  
12       delinquency in not having thoroughly reviewed it.  
13       But those were two topics that we were interested  
14       in. I was wondering if you could help point this  
15       Committee to where there are responses to those  
16       requests, and/or if you might be able to provide  
17       that information if there's not.

18              HEARING OFFICER KRAMER: I may be able  
19       to help on that. I recall at some point after the  
20       scheduling order went out the applicant did file  
21       something attempting to respond to those. I don't  
22       know if it's in your exhibit list.

23              MR. GALATI: Yeah, I don't remember if  
24       it was a status report or was something that was  
25       stand-alone. But I will scan the record. And if

1       these two questions are not addressed, I will  
2       certainly file supplemental testimony in this area  
3       to address those.

4               I don't normally mark status conference  
5       or status reports as an exhibit. But it might be  
6       in a status report, or an attachment to a data  
7       request or something like that. I'll need some  
8       time to look for that.

9               But I'll put that along the lines with  
10       my other action items. And if we wanted to leave  
11       the record open for that, I know we can provide a  
12       response.

13               PRESIDING MEMBER BYRON: Thank you.  
14       Second topic, if I may. Under alternatives there  
15       is some discussion of page 6-10 about  
16       photovoltaics, distributed PV applications such as  
17       rooftops. Installations would not have the  
18       impacts to land resources that a utility-scale PV  
19       project would have.

20               Also the land requirements of utility-  
21       scale PV plants limitations on peak power output  
22       and high capital costs seem to cause this  
23       alternative to fail to meet the screening criteria  
24       that's listed earlier in the section.

25               My question has more to do with whether

1 or not we've done sufficient analysis at looking  
2 at photovoltaic as an alternative, as part of this  
3 record.

4 I think maybe I'll address my question  
5 to the staff. Do you feel that this section has  
6 adequately addressed this, compared to perhaps  
7 other recent projects that this Commission has  
8 considered?

9 For instance, from the Chula Vista PMPD,  
10 the Committee found that the analysis of the PV  
11 alternative was insufficient to comply with the  
12 requirements of CEQA and the respective  
13 regulations in the Warren Alquist Act.

14 Mr. Solorio, I know I'm putting you on  
15 the spot, but the question is do you feel you've  
16 done an adequate alternative analysis here?

17 MR. SOLORIO: Considering the project  
18 objectives, yes, I do think I have done an  
19 adequate analysis. Primarily considering the  
20 objective to meet peak demand, and the inability  
21 of PV plants to implement storage capabilities.

22 As well as the reliability aspect of what  
23 this project is supposed to obtain.

24 MR. GALATI: Commissioner, I would add  
25 to that, for -- I'm trying to remember which

1       exhibit -- but in exhibit 41 and in exhibit 36  
2       there is some discussion of one of the things that  
3       Anaheim has to do that's different maybe than a  
4       private generator, is they are required to bid in  
5       a reserve margin into the Cal-ISO market.

6               And I know that reserve margin needs to  
7       be dispatchable. So, that's why the project is  
8       built the way it is, as well. And I'm sure that  
9       plays into the PV analysis, as well.

10              MR. SOLORIO: If I can elaborate on  
11       that, that is the third project objective in terms  
12       of the capacity reserves.

13              In addition, back to your earlier  
14       question regarding a backup to wind, that is again  
15       the last objective here, so in order to balance  
16       out those -- the production cycles from wind and  
17       solar versus having an available simple cycle  
18       plant.

19              PRESIDING MEMBER BYRON: Thank you,  
20       both. I'm satisfied. I don't see any reason to  
21       keep that one open.

22              I have one final question, and that is  
23       having had an opportunity to visit the site, I'm  
24       still confused. Where's the canyon?

25              (Laughter.)



1                   MR. GALATI: Yeah, name, only. And it's  
2                   probably the particular winery that I'm going to  
3                   go get a bottle from when we get our license.

4                   PRESIDING MEMBER BYRON: Thank you, Mr.  
5                   Kramer.

6                   HEARING OFFICER KRAMER: Okay. The  
7                   exhibits now. From the applicant we have exhibits  
8                   1 through 75 right now.

9                   There probably will be a couple more  
10                  from one side or the other in the next week or so.

11                  And from the staff we have exhibits 200  
12                  and 201.

13                  Have I missed any exhibits with that  
14                  compilation?

15                  MR. GALATI: None from the applicant's  
16                  side.

17                  HEARING OFFICER KRAMER: Okay, so, Mr.  
18                  Galati, do you want to move exhibits 1 through 75?

19                  MR. GALATI: Absolutely like to move  
20                  exhibits 1 through 75 into evidence.

21                  HEARING OFFICER KRAMER: Does staff  
22                  object?

23                  MS. DYER: No objections.

24                  HEARING OFFICER KRAMER: Seeing none,  
25                  those are accepted into evidence.

1                   And, staff, with regard to exhibits 200  
2                   and 201?

3                   MS. DYER: Staff would like to move  
4                   exhibits 200 and 201 into evidence.

5                   HEARING OFFICER KRAMER: Mr. Galati?

6                   MR. GALATI: No objection.

7                   HEARING OFFICER KRAMER: Those will be  
8                   received into evidence.

9                   I do not see any need for -- let's see,  
10                  did either party want to make a closing argument  
11                  or comment?

12                  MR. GALATI: I'd just like to make a  
13                  couple of closing comments. First, I'd like to  
14                  make sure that I understand my action items, since  
15                  I was agreeing to do things.

16                  One of providing the South Coast Air  
17                  Quality Management District letter; and the record  
18                  will be left open for air quality for that  
19                  purpose.

20                  And then also we are to provide some  
21                  language for staff to review, and maybe stipulate  
22                  if we can come up with joint language, on the  
23                  condition dealing with the ERC table.

24                  And the third action item is to locate  
25                  the lot-line adjustment letter. And if not in the

1 record, make sure that it is in the record as an  
2 additional exhibit.

3 And last, -- well, to provide -- number  
4 4 is to provide staff with language on traffic and  
5 transportation with respect to new item J in the  
6 shuttle service.

7 And then lastly, point the Committee in  
8 the direction of answering the questions regarding  
9 energy efficiency and the goals outlined in the  
10 IEPR. And also the RPS goal towards 20 percent,  
11 what are we doing specifically to backup wind.  
12 And if that's not already in the record, to  
13 provide an exhibit addressing those two questions  
14 for Commissioner Byron.

15 I think those were all the action items  
16 that I wrote down.

17 And then lastly, I'd like to thank very  
18 much the Committee for scheduling the prehearing  
19 conference and the evidentiary hearing together.  
20 This is a very important project.

21 We have been struggling for a very long  
22 time to get this project permitted. Largely, at  
23 first, due to the South Coast Air Quality  
24 Management District -- I'll go ahead and say it --  
25 fiasco regarding the priority reserve credits.

1                   This applicant has gone out and  
2                   purchased credits at a significant cost so that it  
3                   is not entangled in that. And in my opinion, it  
4                   is the only project in the South Coast Air Quality  
5                   Management District, other than Riverside, that  
6                   was able to do that.

7                   It is very important that we get to  
8                   construction. And so we'd ask the Committee to  
9                   reconcile and write a Presiding Member's Proposed  
10                  Decision as soon as is possible.

11                  So, with that, again, thank you for  
12                  combining the two hearings. That is a helpful  
13                  step. We do not believe we need to brief any of  
14                  the issues. And we would submit any disagreements  
15                  that we might have with staff, which I believe  
16                  there's only one on water, for your consideration.

17                  HEARING OFFICER KRAMER: Okay. For  
18                  staff, as far as homework goes, I have responding,  
19                  of course, to what Mr. Galati's going to propose.  
20                  And then in the area of cultural, look at the  
21                  conditions and propose some way to clarify which  
22                  conditions survive at the end of construction.

23                  MS. DYER: That's what I have, as well.  
24                  And we will do that.

25                  HEARING OFFICER KRAMER: Do you have any

1 other comments?

2 MS. DYER: No other comments.

3 HEARING OFFICER KRAMER: Okay. One last  
4 call on the telephone. I don't believe we had any  
5 other members of the public.

6 Let's see, Mr. Wedea, are you still  
7 there, first of all? And did you wish to make any  
8 comments?

9 Is anyone else on the telephone who  
10 wishes to make a public comment?

11 Hearing none, I think we agree that with  
12 the exception of the additional -- of the homework  
13 items, which we would like to receive by the close  
14 of business next Monday, the 9th, that there is no  
15 need for additional hearings or briefings. And we  
16 will endeavor to produce the proposed decision as  
17 soon as we can.

18 PRESIDING MEMBER BYRON: Mr. Kramer, I'd  
19 like to thank you. I think you've done an  
20 excellent job of conducting this hearing. We had  
21 scheduled, I think, most of the day for it, and  
22 you've gotten us done here in a couple of hours.  
23 So, I'd like to thank you.

24 But also to both the applicant and  
25 staff, I think you've all done an excellent job on

1 resolving issues. There's a few minutiae here  
2 that we'll figure out over the next couple of  
3 days.

4 But also I'd like to mention I was very  
5 pleased that the City of Anaheim was able to  
6 figure out how to keep this on track, given the  
7 fiasco that Mr. Galati refers to down in the South  
8 Coast. We are working on that. But I think this  
9 is very well done.

10 I'd like to thank you all for your time  
11 this morning.

12 HEARING OFFICER KRAMER: Thank you.  
13 With that, we are adjourned.

14 (Whereupon, at 12:11 p.m., the  
15 prehearing conference and evidentiary  
16 hearing were adjourned.)

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I, PETER PETTY, an Electronic Reporter,  
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November 10, 2009

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